

**NO. PD-0048-19**

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**IN THE  
COURT OF CRIMINAL APPEALS OF TEXAS**

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FILED  
COURT OF CRIMINAL APPEALS  
2/11/2020  
DEANA WILLIAMSON, CLERK

**THOMAS DIXON,**  
Appellant-Respondent,

v.

**THE STATE OF TEXAS,**  
Appellee-Petitioner.

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**APPELLANT'S MOTION TO STAY MANDATE**

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On Discretionary Review from the  
Seventh Court of Appeals for the State of Texas,  
No. 07-16-00058-CR;  
On Appeal from the  
140th District Court of Lubbock County, Texas  
No. 2012-435,942.

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## **TO THE HONORABLE TEXAS COURT OF CRIMINAL APPEALS:**

Thomas Michael Dixon, Appellant, files this Motion to Stay this Court's Mandate under Texas Rule of Appellate Procedure 18.2, pending a Petition for Certiorari to the Supreme Court of the United States. In support of same Defendant would show this Honorable Court as follows:

### **INTRODUCTION**

This Court is authorized, pursuant to Rule 18.2 of the Texas Rules of Appellate Procedure, to enter a stay of its mandate pending the filing of a petition for writ of certiorari to the Supreme Court of the United States. The Appellant respectfully submits that his grounds for certiorari under the 4<sup>th</sup> and 6<sup>th</sup> Amendment are substantial and that he would incur serious hardship from the mandate's issuance. Dr. Dixon's Capital Murder Conviction and the accompanying 4<sup>th</sup> and 6<sup>th</sup> Amendment Violations raise a Substantial Question of Law Worthy of Certiorari. The Appellant is afforded the right to seek appellate relief from his conviction, and should not be retaliated against for pursuing such relief. The Supreme Court recognizes that "punish[ing] a person because he has done what the law plainly allows him to do is a due process violation of

the most basic sort . . . .” *Bordenkircher v. Hayes*, 434 U.S. 357, 363 (1978).

### Irreparable Injury

Dr. Dixon’s conviction was reversed by the 7<sup>th</sup> Court of Appeals on December 13, 2018 and has since been out on bond pending appeal. If this Court denies Dr. Dixon a stay of its mandate pending his petition to the Supreme Court of the United States, it is likely that he will be returned to TDCJ. This would cause irreparable injury to Dr. Dixon, in that the 7<sup>th</sup> Court of Appeals has reversed his conviction and would in essence place a man whose conviction has been reversed back in custody. Dr. Dixon should remain out of custody pending Supreme Court review of his points on certiorari.

### CONCLUSION

Dr. Dixon was granted the correct resolution to this case via appellate relief as set out in his motion for rehearing. Dr. Dixon has outlined the reasons why, at a minimum, his claims are not frivolous, and has further set forth detailed reasons why he is constitutionally entitled to a stay of these proceedings. For these reasons, this Court should grant Dr. Dixon a stay so that the vitally important issues raised in his petition

for writ of certiorari can be properly considered by the Supreme Court of the United States.

**WHEREFORE PREMISES CONSIDERED**, Appellant prays this Honorable Court grant him a stay of the mandate in this cause pending his petition for writ of certiorari to the Supreme Court of the United States pursuant to Rule 18.2. of the Texas Rules of Appellate Procedure. Defendant further. Prays. For any and all other relief this Court deems fit in law or equity.

Respectfully submitted,  
**GOLDSTEIN & ORR**

By: /s/ Cynthia E. Orr  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the above Motion to Stay Mandate was served *via* the state e-filing service, on this 7th day of February 2020.

By: /s/ Cynthia E. Orr  
Cynthia E. Orr